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SUBJECT: OSCE ZAGREB HEAD TO RECOMMEND ADDITIONAL YEAR FOR OFFICE

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¶1. (SBU) SUMMARY: Ambassador Foley paid an introductory call to Ambassador Enrique Horcajada, head of the OSCE office in Zagreb, on October 14. Based on this year's annual assessment (currently in draft form) Horcajada indicated that he will ask for an extension of the office's mandate. The recommendation for extension is based largely on the office's desire to continue war crimes monitoring. Horcajada will recommend that the office's mandate regarding housing care be dropped or severely reduced. Horcajada suggested the Croatian government is softening in its objections to an extension of the office's mandate. END SUMMARY.

¶2. (SBU) In his assessment of the current situation regarding war crimes trials, Horcajada said that Croatia had come far, particularly with the Justice Minister's admissions in December 2008 that judges erred in many cases in the 1990s and that they needed to revise a large number of cases. The Ministry's action plan on the review of more than one hundred in absentia verdicts from the 1990s expired in June 2009, he said, but there is still substantial work to be done and the cases are working their way through the prosecutors' offices and courts. While the progress in these cases is positive, they are not yet finalized and he wants the OSCE to remain to monitor these cases in 2010. (NOTE: In a separate meeting with visiting War Crimes Envoy Rapp, Horcajada even suggested the office could possibly last into 2011. End Note.) The OSCE's war crimes expert, Romana Schweiger, also noted that the Ministry of Justice (MOJ) recently committed to review amnesty decisions from the 1990s, which mostly cleared Croatians of any war crimes, and are the counterpoint to the in absentia verdicts largely targeting Serbs. The reviews are progressing slowly, she said, although there is momentum to address these issues.

¶3. (SBU) Horcajada also noted the commitment of the Minister of Justice to resolve the approximately 600 cases in which perpetrators are unknown. (NOTE: The police and prosecutors' offices are responsible for investigating and bringing charges in war crimes cases and are not under the supervision of the Ministry of Justice. The police in local jurisdictions may be reluctant to investigate, especially in cases where perpetrators might be in or linked to the police or local governments. The Chief State Prosecutor, however, has told Poloff that he is also committed to resolving these lingering cases. END NOTE.) Horcajada explained that the investigation and prosecution of unresolved cases could take years and indicated that an OSCE presence could be necessary until they see that the process is sustainable. Schweiger acknowledged this caseload would have to be prioritized.

¶4. (SBU) Ambassador Foley remarked that while the US recognizes the merit of continuing the office's work for one more year, this was a nuanced position and we would not support an expansion of the office's work as a bridge to indefinite extension. Ambassador Foley stated that the project to reopen the cases had great merit, but also remarked that Minister of Justice Simonovic had expressed confidence in the ability of Croatia to complete the task. Horcajada admitted that realistically it is unlikely the OSCE office would remain once Croatia entered the EU.

¶5. (SBU) In his assessment of the current situation regarding

housing care, Horcajada said that approximately 1,500 units will remain to be delivered through 2010. He said that although Croatia is behind on its benchmarks, the office believes the current program is sustainable and that the trend is positive overall. He will recommend that further monitoring by the OSCE office is no longer necessary and suggest the housing care mandate be ended. If the housing care mandate continues for another year he will suggest a reduction of staff to three persons to monitor the final delivery of units in the agreed benchmarks.

**¶6.** (SBU) Horcajada said that while the Croatian Government initially seemed very resistant to the idea of an additional extension of the office, he has seen a recent softening in its position, particularly from Minister of Foreign Affairs Jandrokovic. He remarked that the person most resistant to the continuation is the Croatian Ambassador to the OSCE, Neven Madey. Horcajada laid out three possible scenarios regarding the extension of the office. The first scenario would be a routine extension with no change in mandate. The second scenario would be an extension but with a stipulated end date. The third scenario would be an extension but with an unwritten understanding that it would be the last extension. This last scenario would require a declaration of understanding among participating states. Horcajada said that Ambassador Madey found options one and three unacceptable and desired option two. Horcajada explained that option two is unlikely, as it would set a bad precedent for other nations with OSCE offices to set arbitrary dates for closure instead of basing closure decisions solely on mandate fulfillment. (NOTE: Option two is the course of action Croatia tried to pursue last December, but their efforts failed. The compromise was an awkwardly worded mandate extension that alluded to Croatia's progress. It seems unlikely a similar attempt for a stipulated end date would succeed this year either. END NOTE.)

**¶7.** (SBU) COMMENT: Ambassador Horcajada's allusions to an extension

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past 2010 of the OSCE office in Zagreb, to address both legacy and new issues related to war crimes, reinforces the need for OSCE member states to reach agreement about what a final "end state" for the office would entail. Failure at this point to define clearly what remains for Croatia to do invites certain member states to continually move the goalposts. The key benchmark should be whether Croatia has adequate institutions and systems in place to handle the issues remaining, rather than have a permanent presence here until all cases are handled or refugees returned. END COMMENT

FOLEY